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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: ELECTRONIC BOOKS ANTITRUST	:	
LITIGATION	:	
	:	
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	:	
UNITED STATES OF AMERICA,	:	
	Plaintiff,	
	:	
-v-	:	12 Civ. 2826 (DLC)
	:	
APPLE, INC., et al.,	:	
	Defendants.	
	:	
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	:	
THE STATE OF TEXAS, et al.,	:	
	Plaintiffs,	
	:	
-v-	:	12 Civ. 3394 (DLC)
	:	
PENGUIN GROUP (USA) INC., et al.	:	<u>SCHEDULING ORDER</u>
	Defendants.	
	:	
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DENISE COTE, District Judge:

The Court having conducted a conference on June 22, 2012,
it is hereby

ORDERED as follows:

1. The parties in all three of the above-captioned actions shall by **July 6, 2012** submit an amended Joint Initial Report reflecting the rulings made at the June 22, 2012 conference.
2. The parties in the above-captioned actions are instructed to contact the chambers of the Honorable Kimba Wood no later than **July 20, 2012** to schedule settlement discussions under her supervision to begin no later than this fall.

3. The schedule for the Government's motion with respect to a proposed final judgment in The United States of America v. Apple, Inc., et al., 12 Civ. 2826, which was set by Order of April 23, 2012, is revised. The Government shall file any motion with respect to a proposed final judgment by **August 3, 2012**. Any submissions in response to this motion by a party in one of the above-captioned actions shall be filed by **August 15** and shall not exceed five pages. The Government shall have until **August 22** to file any reply.
4. The stay of litigation as to defendants HarperCollins Publishers L.L.C., Hachette Book Group, Inc., Hachette Livre SA, Simon & Schuster, Inc., and Simon & Schuster Digital Sales, Inc. in In re: Electronic Books Antitrust Litigation, 11 MD 2293, is extended from July 11 to **August 10, 2012**.
5. The plaintiffs in The State of Texas, et al. v. Penguin Group (USA), Inc., et al., 12 Civ. 3394 shall submit, by **August 20, 2012**, any motion for preliminary approval of any settlement agreement.
6. Any motion for class certification in In re: Electronic Books Antitrust Litigation, 11 MD 2293, must be submitted by **November 16, 2012**. The defendants' opposition or oppositions must be submitted by **December 14**. The plaintiffs' reply, if any, must be submitted by **January 18, 2013**.
7. Identification of experts in each action must occur by **November 16, 2012**. Expert reports and disclosure of expert testimony conforming to the requirements of Rule 26(a)(2)(B), Fed. R. Civ. P., by the party bearing the burden on an issue must be served by **January 25, 2013**. Identification of rebuttal experts and disclosure of their expert testimony must occur by **February 15, 2013**.
8. All fact and expert discovery in each action must be completed by **March 22, 2012**.
9. The Joint Pretrial Order in the above-captioned action The United States of America v. Apple, Inc., et al., 12 Civ. 2826, must be filed by **April 26, 2013**.

As described in this Court's Individual Practices in Civil Cases, the following documents must be filed with the Pretrial Order: Proposed Findings of Fact and Conclusions of Law and a Memorandum of Law addressing all questions of law expected to arise at trial. Any responsive memorandum of law is due one week thereafter.

All direct testimony except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a witness for whom a party has requested and the Court has agreed to hear the direct testimony at trial, shall be submitted by affidavits served, **but not filed**, with the Joint Pretrial Order.

Those portions of depositions that are being offered as substantive evidence, along with a one page synopsis (with transcript citations) of such testimony for each deposition, shall be exchanged at the time the Pretrial Order is filed.

Three days after submission of the affidavits, counsel for each party shall submit a list of all affiants that he or she intends to cross-examine at the trial. Affiants for whom such notice is not given are not required to be present at trial.

Counsel will provide the Court with two (2) courtesy copies of all these documents at the time they are served, as well as one set of pre-marked exhibits assembled sequentially i) in a looseleaf binder, or ii) in separate manila folders labeled with the exhibit numbers and placed in a suitable container or box for ready reference.

10. Any motions in limine in 12 Civ. 2826 are due by **April 26, 2012**. Any responses are due on **May 3**. Any replies are due on **May 8**.
11. The final pretrial conference in 12 Civ. 2826 is scheduled for **May 24, 2013** at **2:00 P.M.** in Courtroom 15B, 500 Pearl Street.
12. The trial in 12 Civ. 2826 will begin at 9:30 a.m. on **June 3, 2013**.
13. Any motion for summary judgment in the above-caption actions In re: Electronic Books Antitrust Litigation, 11 MD

2293, or The State of Texas, et al. v. Penguin Group (USA), Inc., et al., 12 Civ. 3394 must be served by **September 13, 2013**. Any opposition must be served by **October 4**. Any reply is due **October 18**.

IT IS FURTHER ORDERED that at the time any brief or submission to the Court is filed or served, the submitting party shall supply two courtesy copies to the Court by mailing or delivering the copies to the United States Courthouse, 500 Pearl Street, New York, New York.

Dated: New York, New York
June 25, 2012

Denise Cote
DENISE COTE
United States District Judge